REMARKS

The Office Action dated October 17, 2003 has been fully considered by the Applicant. The Examiner therein withdrew his prior rejection of the claims based on Wilson (Patent No. 2,922,501) in view of Miller (Patent No. 4,899,500) and Ferguson (Patent No. 5,244,346) based on Applicant's amendment and remarks dated October 6, 2003.

The Examiner has removed the finality of the prior rejection and has issued a new rejection of Claims 1, 4, 7 and 8 under 35 U.S.C. §103(a) as unpatentable over Wilson in view of Miller et al. and newly cited Schillinger et al. (Patent No. 5,961,145).

While Wilson shows a mobile tower mounted on a trailer having a chassis, it is otherwise dissimilar. In particular, as pointed out in the prior amendment, Wilson does not disclose or show a plurality of pivotally mounted outriggers on a chassis. In Wilson, the outriggers are not a part of the chassis at all. Instead, the outriggers are a part of the sub-structure 1 of the rig which is separate and apart from the trailer 12 and its mast tower. This is consistent throughout Wilson. For example, the title of the invention is "Portable Rig Mast and Substructure" (underlining added) confirming that the rig mast and the substructure are two separate items. Moreover, for example, in column 1, lines 17-20, Wilson states that "the rig proper is mounted on a vehicle for transportation over the highways, and wherein the sub-structure therefor is so designed as to provide a ramp upon which the rig may be rolled so as to enable the rig to be elevated above the level of the ground. . .". The outrigger arms 48 cited by the Examiner are part of the substructure rather than a part of the rig mast and trailer. The Examiner appears to comprehend this where he states in the first sentence on page 3 of the Office Action that "Wilson does not show a plurality of outriggers pivotally mounted to the chassis. . .".

While it is acknowledged that Miller does show a foot vertically adjustable, it is otherwise dissimilar. In particular, as set forth repeatedly, Miller is not a portable, telescoping, mobile device.

The Examiner attempts to overcome the shortcomings by citing a third reference, Schillinger et al. (Figures 2A - 3E) to show outriggers 30 and 32. Schillinger et al., however, merely shows a vehicle mounted crane and does not show a self-guying communication tower at all. In particular, Schillinger does not show pivotally mounted outriggers having guy wire attaching points on the outriggers.

In summary, Wilson, Miller et al. and Schillinger et al., taken together do not disclose or suggest all of the claim limitations of the present invention and accordingly, the Examiner's rejection is misplaced.

It is improper to combine three disparate references to achieve the invention under consideration unless there is some incentive or suggestion in the references to do so.

The Court of Appeals for the Federal Circuit has repeatedly held that under Section 103, teachings from various references can be combined only if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F2d 1572, 221 USPQ 929 (CAFC 1984).

> Stated another way:
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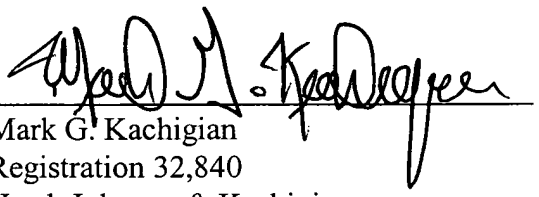
> > It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps...The references themselves must provide some teaching whereby the applicant's combination would have been obvious. In re Gorman, 18 USPQ2d 1885 (CAFC 1991).

The Examiner is required to follow the law as set forth by the Federal Circuit. In summary, the combination of patents to achieve the claims of the present invention is untenable.

For all the foregoing reasons, it is believed that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is respectfully requested.

Respectfully submitted,



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